

DEFENDANT'S MOTION IN LIMINE NUMBER 16

EXHIBIT 1:Deposition of Boyd Don Hammonds

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1 the clerk in Pensacola.

2 Q. But, nevertheless, in this
3 case, the person who served as the
4 dispatcher, we're going to say who served
5 that role, was the terminal manager, Glen
6 Clark, who set up this run?

7 A. Standard run.

8 Q. This standard run, for
9 Mr. Craig Stephens; is that right?

10 A. Yes, yes.

11 Q. And based on the policies and
12 procedure, when Glen Clark is serving as the
13 dispatcher or if there was a separate
14 dispatcher, is there any written policies or
15 procedures on how often the dispatcher
16 should be in contact with the driver?

17 A. Not a road driver, no.

18 Q. Not a who driver?

19 A. Not a road driver.

20 Q. Is there any rule and
21 procedure about some specific time to be in
22 contact with some other type of driver?

23 A. City driver.

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1 Q. With a city driver?

2 A. Yes.

3 Q. So, there's a written
4 procedure about how often to be in contact
5 with a city driver?

6 A. Yes.

7 Q. No rule or written procedure
8 about how often to be in contact with a road
9 driver?

10 A. No.

11 Q. Okay. Do you not have any
12 idea why there is a distinction there?

13 A. The road run is predescribed,
14 where the city driver goes in different
15 directions every day to maybe different
16 customers every day. And he is the last --
17 He is required to call in every hour on his
18 progress.

19 On a road run, which is
20 predetermined, the guy leaves a point of
21 origin, and goes the destination and returns
22 to origin.

23 Q. Okay. So, with a road run,

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1 there's no procedure on being in contact?

2 A. No.

3 Q. So, there was no procedure or
4 no policy that somebody should have been in
5 contact with Mr. Craig Stephens every hour?

6 A. No.

7 Q. Did your investigation turn
8 up, in your mind, that if that policy would
9 have applied to road drivers -- Well, let's
10 assume they don't apply to road drivers.
11 Well, if that policy would have been in
12 effect and applied to road drivers, you all
13 would have more immediately been able to
14 observe and identify a delay that you all
15 considered unreasonable?

16 MR. BROCKWELL: Object to the
17 form.

18 A. No.

19 Q. You don't think so?

20 A. (Witness shakes head in the
21 negative.)

22 Q. What would have happened -- If
23 the policy and procedure was that after one

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1 hour of leaving the -- after he left
2 Pensacola he didn't respond, wouldn't that
3 alert somebody if the policy and procedure
4 was to respond in one hour?

5 MR. BROCKWELL: Object to the
6 form. Calls for speculation.

7 A. It's a predescribed run, as
8 previously said. There is no reason to
9 discuss where you're at every hour.

10 Q. I thought the reason for
11 wanting to know where the driver is at is to
12 make sure the load is going to make it and
13 on time?

14 A. He's dispatched from origin to
15 destination and from destination back to
16 origin.

17 Q. You all advertise to y'all's
18 customers: We have technology in place to
19 allow us to track our loads to ensure
20 they're on time.

21 A. Track the freight.

22 Q. Yeah. Track the freight?

23 A. Uh-huh.

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1 Q. And in this case, he was
2 carrying freight, wasn't he?

3 A. Yes.

4 Q. And you all are not talking --
5 But that don't apply to freight when it's on
6 the road?

7 A. No.

8 Q. That just applies to city
9 freight?

10 A. That applies to freight as for
11 bar scanning and out for delivery.

12 Q. So, it's your -- There's no
13 communication required between the
14 dispatcher or the terminal manager for an
15 on-the-road driver?

16 A. No.

17 Q. Let's talk about what Mr. Glen
18 Clark did. When you were investigating this
19 matter, did you find out exactly the course
20 or route he took when you say he went and
21 looked for Mr. Stephens?

22 A. No. It was the regular
23 standard run, standard route. I didn't

1 discuss the route with him.

2 Q. So, you gathered or assumed
3 that he took the same route that
4 Mr. Stephens took?

5 A. Yes.

6 Q. And do you know if anybody
7 other than Mr. Glen Clark went out on the
8 road and tried to locate him, physically, a
9 Benton Express employee?

10 A. Bill Jones, the regional
11 manager of Georgia.

12 Q. He went out on the road and
13 tried to locate him, also?

14 A. Yes.

15 Q. Mr. Glen Clark went out on
16 Saturday night?

17 A. Saturday afternoon through
18 early Sunday morning.

19 Q. And do you know when Mr. Bill
20 Jones went out on the road?

21 A. He went out on Sunday.

22 Q. He went out on Sunday. And do
23 you have any idea what time?

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1 A. It was in the neighborhood of
2 one o'clock, and returned somewhere around
3 nine o'clock that night.

4 Q. Okay. One o'clock in the
5 evening?

6 A. One o'clock in the evening.

7 Q. Returned at nine o'clock that
8 night?

9 A. That's approximate time. I'm
10 not exactly sure on the one o'clock.

11 Q. Did you find out where he
12 went?

13 A. He went out to 85, and
14 retracing the way that he would have gone on
15 a normal route back to Pensacola.

16 Q. Do you know how far he went?

17 A. No, I do not.

18 Q. Do you know if he made it to
19 Montgomery?

20 A. No.

21 Q. Never asked?

22 A. No.

23 Q. Did you ask him where he

1 stopped?

2 A. Did I ask him where he
3 stopped?

4 Q. Yeah. Places he stopped and
5 looked, or did he just drive the highway?

6 A. He mentioned that he had
7 stopped off at places where there were stops
8 and exits, to see if he could locate him,
9 unsuccessfully.

10 Q. If a phone of Benton Express
11 is not working, what, if any, technology --
12 And I think the answer may be simple, but I
13 have to ask it for the Record. Do y'all
14 have any technology similar to the GPS that
15 would allow you to locate a tractor or
16 trailer if the phone is not working?

17 A. No.

18 Q. Cars these days, for awhile
19 now, have these things in them similar to --
20 I call them black boxes, where they record
21 data, like speed a vehicle was going,
22 whether you had your seat belt on. I call
23 them black boxes. A more particular name is

1 SDM modules in some cars. Are you familiar
2 with those?

3 A. Somewhat.

4 Q. Do your -- Did Benton Express
5 have any modules on their vehicles like
6 that?

7 A. Yes.

8 Q. And do you know if this
9 vehicle had such a module on it?

10 A. Yes.

11 Q. And have you all ever -- Do
12 you know if you all have taken possession of
13 that module?

14 A. Yes.

15 Q. And have you all downloaded
16 and obtained information from that module?

17 A. No information available. It
18 was completely destroyed.

19 Q. You all have the module, but
20 it was completely destroyed?

21 A. Completely destroyed.

22 Q. But you have the physical
23 module, it's just the data can't be

1 obtained, is that what you're saying?

2 MR. BROCKWELL: I think it's
3 still part of the tractor, if that makes any
4 sense, LaBarron, what's left of it.

5 Q. It's still on the tractor,
6 from your understanding?

7 A. Yes.

8 Q. Do you know if anybody took
9 the appropriate equipment and tried to hook
10 into it and see if they could get the
11 information out of it?

12 A. I believe it was Cummings.

13 Q. Okay. Do you know when they
14 tried to do that?

15 A. I don't have the date, no.

16 Q. Do you know if it was the day
17 of, day after, maybe, or a long time
18 afterwards?

19 A. It was a short time after, and
20 I do not know a specific date, no.

21 Q. Just a couple of days after or
22 so, is what you're saying when you say a
23 short time?

1 A. Several weeks.

2 Q. Several weeks. Do you know
3 what kind of information would be maintained
4 on this black box?

5 A. No.

6 Q. You don't have any idea?

7 A. Well, I know speed, as far as
8 stops and shifting gears, I'm informed, but
9 other than that, no.

10 Q. Have you ever looked at this
11 data before?

12 A. No.

13 Q. No other wreck you all --
14 Since you investigate wrecks, no other
15 wrecks you've had to download the data to
16 try to figure out what was going on with the
17 truck when the wreck happened?

18 A. No.

19 Q. And your trucks have been in a
20 number of wrecks since you've been there?

21 A. Yes.

22 Q. And a number of those wrecks
23 have resulted in lawsuits?

1 A. Some, yes.

2 Q. A good number of them? More
3 than ten or twenty you've been involved in
4 or know of that resulted in a lawsuit;
5 right?

6 A. I don't know that that's a
7 good number, twenty.

8 Q. How many do you know of?

9 A. I'd have to look at my loss
10 runs.

11 Q. Okay. You'd have to look at
12 your who?

13 A. Loss runs.

14 Q. And that's, L-O-S-S, runs,
15 R-U-N-S?

16 A. Yeah.

17 Q. That record would just show
18 you the number of wrecks where you all have
19 been involved in lawsuits?

20 A. It shows what is filed with
21 the insurance company, yes.

22 Q. Did you help gather documents
23 in this case?

1 A. Did I do what?

2 Q. Help gather documents in this
3 case to give to the lawyers.

4 A. Yes.

5 Q. And did you gather the loss
6 runs documents?

7 A. I'm not sure if they were
8 asked for or not.

9 Q. Okay. Does anybody you know
10 of at Benton Express regularly testify in
11 cases that involve lawsuits, such as
12 yourself?

13 A. Does anybody else, you say?

14 Q. Yes.

15 A. No.

16 Q. So, mostly -- Any time there
17 is a lawsuit, generally you are the one who
18 testifies for the company?

19 A. Yes.

20 Q. Did you talk to anybody who
21 could discuss or say anything about his
22 demeanor at the time he left Atlanta?

23 A. There was no information

1 available to that.

2 Q. Who all he would have had to
3 come in contact with? Obviously, the
4 security guard who logged him out or checked
5 him out. Who else he would have came in
6 contact with?

7 A. He may have seen someone
8 working on the dock. Normally his dispatch
9 is put in a location, and he just picks up
10 his dispatch and he sees what trailer he's
11 taking out.

12 The guard has signed him in,
13 and he, in turn, hooks up to that trailer,
14 pretrips, and then he'll depart the
15 terminal, with the guard signing him out.

16 Q. When you conducted your
17 investigation into this matter, did you look
18 through his logs and things showing his
19 routine runs?

20 A. Yes.

21 Q. Did you see anything abnormal,
22 in looking through his logs?

23 A. No.

1 Q. Did you see anything that
2 would suggest that he was pushing and maybe
3 violating hours of service?

4 A. No.

5 Q. Did you see anything that
6 would suggest that he was improperly
7 reporting data on his documents?

8 A. No.

9 Q. Did you see any document that
10 had conflicting numbers, for example, one
11 document may show blank miles driven on that
12 day and another document showed another one
13 for the same time frames? Did you observe
14 anything like that?

15 A. I did not notice it, no.

16 Q. You saw anything in the
17 documents -- in his logs, in documents, that
18 would suggest that he -- he was driving at a
19 speed that was not permissible?

20 A. No.

21 Q. You all, when you hire
22 drivers, do a drug screen?

23 A. Yes.

1 Q. That's preemployment drug
2 screen?

3 A. Yes.

4 Q. Do you all have a random drug
5 policy that after you start working, that
6 you are randomly tested?

7 A. Yes.

8 Q. And do you know if Mr. Craig
9 Stephens was ever randomly tested?

10 A. No.

11 Q. No, you don't know or no, he
12 wasn't?

13 A. No, he never was tested.

14 Q. And how long had he been in --
15 How long had he been employed by Benton
16 Express?

17 A. Thirteen months, plus a few
18 days.

19 Q. Yeah. Thirteen months, plus a
20 few days up until the time of that wreck?

21 A. Up until the time of the
22 wreck.

23 Q. And never had been randomly

1 drug tested?

2 A. Never had been selected.

3 Q. Do you know how the random
4 selection process works?

5 A. We have a clinic and it's a
6 consortium, where they tell us who to send
7 for a drug test at the rate of fifty-two
8 percent a year.

9 Q. Fifty-two percent of your
10 employees --

11 A. Fifty-two percent of the
12 truckers.

13 Q. Okay. And when you say
14 consortium, you mean with all the trucking
15 companies, or did you just mean all of your
16 employees?

17 A. All of my employees.

18 Q. And a private company handles
19 that?

20 A. Yes.

21 Q. And they just send you all who
22 needs to be tested and you all just tell
23 them to go report?

1 A. Yes.

2 Q. So, when Mr. Stephens got to
3 Atlanta, there wouldn't have been a specific
4 live person or dispatcher -- I mean, live,
5 physical person, his load was preset, all he
6 had to do was pick up the ticket, connect to
7 that trailer, and keep on going about his
8 business?

9 A. That's correct.

10 Q. Have you all gained -- not
11 speculation, but any evidence to confirm any
12 delays that Mr. Craig Stephens had
13 encountered?

14 A. Have we gained any evidence?

15 Q. Yeah. Have you all said:
16 Hey, after we checked with the police, we
17 realize there was a wreck. Do you all have
18 any evidence to support that he encountered
19 some delay?

20 A. No.

21 Q. Have you ever -- Have anybody
22 ever told you anything, whether you consider
23 -- you may have not considered that

1 evidence, and I didn't want to limit the
2 word, but told you, Bill Jones, Glen Clark,
3 anybody that said: Hey, there was a big
4 traffic jam, there was some problem, I heard
5 a hijacking had occurred, anything that
6 could -- that would lead y'all to believe
7 that he was delayed somewhat?

8 A. No.

9 Q. I know you told me that Glen
10 Clark in Atlanta was the terminal manager.

11 A. Glen Clark is the terminal
12 manager in Pensacola.

13 Q. I apologize. And Bill Jones
14 was the terminal manager in Atlanta?

15 A. Terminal manager/regional
16 manager.

17 Q. Regional manager. Exactly.
18 Meaning he's over all the terminal managers?

19 A. Only in Georgia.

20 Q. Okay. Regional. So, his
21 region is just Georgia?

22 A. Georgia.

23 Q. So, any terminal in Georgia,

1 he's over?

2 A. Yes.

3 Q. Glen Clark is just over the
4 Pensacola terminal?

5 A. Correct.

6 Q. Who all -- Who is the -- Any
7 other person who is at that terminal that he
8 has to answer to?

9 A. Which terminal?

10 Q. Glen Clark in Pensacola.

11 A. He has to answer to the
12 regional manager of the state of Florida.

13 Q. The regional manager of the
14 state of Florida. And where is he located?

15 A. West Palm Beach.

16 Q. And who is that?

17 A. Steve Sturgin.

18 Q. Steve Sturgin. Have you
19 communicated with Mr. Steve Sturgin at all
20 about -- about this incident?

21 A. He's not involved.

22 Q. Okay. And that's what I was
23 trying to find out. Do you know if Glen

1 Clark ever communicated to the regional
2 manager when he first was starting to be
3 concerned about the delay of Mr. Craig
4 Stephens?

5 A. No.

6 Q. So, best you know, he hadn't
7 been involved in it at all?

8 A. Correct.

9 Q. And the involvement would be
10 limited, then, from what I gather, is to
11 Glen Clark, Bill Jones and yourself?

12 A. Correct.

13 Q. As far as the men who played a
14 role in investigating this wreck?

15 A. Correct.

16 Q. How does Benton Express handle
17 lost goods?

18 A. Beg pardon?

19 Q. How does Benton Express handle
20 lost goods? In this case, this truck was
21 involved in a wreck, burst into flame and
22 was involved in a wreck with another vehicle
23 that Mr. Roby was in. Was the goods out of

1 that vehicle recovered?

2 A. They were destroyed.

3 Q. And how did you all handle
4 those lost goods?

5 A. We have a seventy-five
6 thousand dollar deductible on cargo losses.

7 Q. Okay.

8 A. We assumed the claims. We
9 self-insured the load. And we have paid on
10 thirteen claims, approximately between
11 twenty-five and twenty-six thousand.

12 Q. And you mean when you say you
13 paid on thirteen claims, you all paid the
14 customers who were waiting on their goods?

15 A. We paid the shipper that
16 shipped the goods.

17 Q. Okay. You all paid the
18 shipper who was shipping the goods to some
19 particular company?

20 A. Right.

21 Q. And the shipper would have
22 been people you all -- And the shippers of
23 the goods would have been companies,

1 generally to say, in and around Atlanta who
2 had -- who y'all picked those goods up,
3 brought them to the Atlanta terminal for
4 Mr. Craig Stephens to bring to the Pensacola
5 terminal to be sent out to some customers?

6 A. Correct.

7 Q. And the people that you all
8 paid, those thirteen claims you all paid,
9 were claims of the people who had sent their
10 goods to the Atlanta terminal which
11 Mr. Craig Stephens picked up?

12 A. Correct.

13 Q. And they ultimately, after
14 they were given notice that the Benton
15 Express vehicle was in a wreck, filed
16 claims?

17 A. Correct.

18 Q. And you all have paid on
19 thirteen of those claims?

20 A. Correct.

21 Q. Do you all have any written
22 policies and procedures concerning what, if
23 -- what claims are covered and what claims

1 you all will pay?

2 A. It's covered by the claims
3 department.

4 Q. And you told me your
5 understanding was thirteen claims have been
6 paid in this case.

7 A. Correct.

8 Q. Is that the total number of
9 shippers involved?

10 A. No.

11 Q. How many shippers had goods on
12 that truck?

13 A. Eighteen.

14 Q. Do you have any idea why those
15 claims hadn't been paid yet?

16 A. They haven't been filed.

17 Q. Meaning the shipper hadn't
18 filed a formal claim with you?

19 A. Right.

20 Q. Have y'all been in
21 communication with the other five who hasn't
22 yet and know whether or not they're going to
23 file a claim?

1 A. I'm not in the claims
2 department. I wouldn't know the answer to
3 that.

4 Q. Do you all, best you know,
5 have any guidelines on when you all will pay
6 claims? Like, for example, is there certain
7 times some claims might not be paid?

8 A. I'm not in the claims
9 department. I would have no knowledge of
10 that.

11 Q. Okay. All right. And that's
12 a fair answer. I'm going to ask you a
13 couple more questions. Not trying to be
14 repetitive, but since you've been there so
15 long you may know of something, even though
16 it's not your duty. Do you follow what I
17 mean?

18 A. I understand.

19 Q. Like I know a lot of things at
20 my law firm that are not my duty, but I
21 understand how certain things work. Like
22 the accounting department is not my duty,
23 I'm a lawyer, but I understand how they pay

1 the checks because I've seen that happen.

2 So I'm going to ask you a few
3 more questions, and you may not know, and
4 that's fair. But if you do -- Do you know,
5 for example, like, if acts of God or
6 terrorism or something like that might be
7 claims that wouldn't be paid? Is it in the
8 guidelines that, say, certain things might
9 not be paid?

10 A. Claims department has their
11 own policy.

12 Q. Okay. I know a lot of
13 companies have people who they call load
14 planners, dispatchers, and things like that.
15 Would, as it relates to Craig Stephens,
16 would Glen Clark play that role as the load
17 planner and dispatcher?

18 A. Repeat the question.

19 Q. I know certain companies have
20 what I call load planners. And I think you
21 even used that word.

22 A. No, I did not.

23 Q. Okay. Well, let me use that

1 word. Load planners. Does Benton Express
2 have load planners at any of its terminals?

3 A. Load or low?

4 Q. Yeah. Load. Like a load,
5 planners. Somebody who plans loads. You
6 know, the picking up and delivering of
7 loads.

8 A. Central dispatch.

9 Q. That's who handles that,
10 central dispatch?

11 A. Yeah. Central dispatch.

12 Q. Okay. And since the Pensacola
13 terminal is small, Mr. Glen Clark, as the
14 terminal manager, handles that?

15 A. The runs are preset, correct.

16 Q. Who presets them? Does he do
17 that or somebody else?

18 A. The runs are preset by --
19 through central dispatch as a -- as what is
20 called a lane. And the trucks run cargo on
21 those lanes.

22 Q. Do you know who is Mr. Bill
23 Jones' immediate supervisor?

1 A. Who is his immediate
2 supervisor?

3 Q. Yes. Anybody he has to answer
4 to.

5 A. The senior vice president of
6 the company.

7 Q. And that was who?

8 A. Benny Cadarow.

9 Q. Do you know if he contacted
10 Mr. Cadarow involving anything before y'all
11 learned out about the wreck?

12 A. I understand he did call him
13 and inform him that the massive hunt was on
14 for Stephens.

15 Q. Has Benny Cadarow played any
16 role? And I've been asking this in trying
17 to make sure. And I think you may have just
18 told me some just general information. But
19 has Mr. Benny Cadarow played any role in the
20 investigation of this wreck that I thought
21 you said was limited to Bill Jones, Glen
22 Clark and yourself?

23 A. That's correct.

1 Q. Has Benny Cadarow played any
2 role in the investigation, though?

3 A. Not to my knowledge.

4 Q. And all you were saying is
5 that you think that Bill Jones notified him
6 that a driver was delayed and y'all were
7 looking for him?

8 A. Correct.

9 Q. Did your investigation lead
10 you to any information concerning whether he
11 had any personal cell phone?

12 A. No.

13 Q. Did you ask did he have any --

14 A. We've got the telephone
15 records. And I -- Like I said earlier, as
16 far as interpreting those records, as far as
17 what's a company phone or his personal cell
18 phone or whatever of that nature, I haven't
19 been able to determine that.

20 Q. Okay. And just to -- And I
21 think you're telling me about the records.
22 But do you know if he had a personal cell
23 phone, like Glen Clark said: I know he had

1 a personal cell phone, but I didn't know the
2 number, or something? Did anybody tell you
3 he had a personal cell phone?

4 A. I think he did, but I'm not
5 sure.

6 Q. Do you know if Glen Clark or
7 anyone knew the personal cell phone number?

8 A. You'd have to ask Glen Clark.

9 Q. And that's something you
10 hadn't asked him?

11 A. Right.

12 Q. Did anybody tell you whether
13 or not they thought the Nextel phone was
14 broke or not operating properly when they
15 were trying to contact Mr. Stephens?

16 A. No.

17 Q. Did they appear to believe
18 that it was working properly, just no
19 response?

20 A. No response, to my knowledge.

21 Q. So, what you gathered was, it
22 would ring or whatever -- Does it ring like
23 a regular telephone, ring, ring, you just

1 pick it up and somebody answers it?

2 A. Some rings, some beeps.

3 Depends on what you set your phone on.

4 Q. Okay. So, it was their
5 understanding that the phone was ringing,
6 they got a dial tone and it rung, but just
7 nobody ever picked it up?

8 A. If you're speaking of Glen
9 Clark, you would have to ask him that
10 question. I don't know.

11 Q. But you didn't ask him that?

12 A. Did not.

13 Q. What about Bill Jones?

14 A. I don't know. You'd have to
15 ask Bill Jones.

16 Q. Okay. Now, you were
17 conducting the investigation; right?

18 A. That's correct.

19 Q. But that's just something you
20 just hadn't asked him?

21 A. Right.

22 Q. And just so you know, and not
23 me trying to pick on you, I was asking you